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ACTION EUR-10

INFO OCT-01 SS-14 ISO-00 EURE-00 TRSE-00 STR-01 EB-03

AGR-03 SP-02 NSC-07 NSCE-00 L-02 CIAE-00 INR-10

NSAE-00 RSC-01 CIEP-02 SSO-00 INRE-00 DRC-01 /057 W

----- 087465

O 111508Z JUL 74

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC IMMEDIATE 7191

C O N F I D E N T I A L SECTION 1 OF 2 EC BRUSSELS 5122

LIMDIS

E.O. 11652: GDS

TAGS: ETRD, EEC

SUBJ: COUNTERVAILING DUTIES ON EC DAIRY PRODUCTS

REF: STATE 149044

1. SUMMARY: COMMISSION OFFICIALS WELCOMED AND GENERALLY ACCEPTED THE POINTS CONTAINED IN REFTEL, AND ARE TODAY SEEKING THE MILK MANAGEMENT COMMITTEE'S APPROVAL OF SUSPENSION OF RESTITUTIONS ON DAIRY PRODUCTS. THEY COULD NOT, HOWEVER, AGREE TO POINT VII. THEY CANNOT NOW COMMIT THE COMMISSION TO ANYTHING APPROACHING NEGOTIATIONS, ALTHOUGH HIJZEN DOES AGREE THAT HE AND MALMGREN CAN INFORMALLY DISCUSS THIS PROBLEM WHEN THEY ARE IN GENEVA NEXT WEEK. THE COMMISSIONERS PRINCIPALLY CONCERNED--LARDINOIS AND SOAMES--PLAN TO PRESENT THE PROPOSAL THAT THE RESTITUTIONS BE SUSPENDED TO THE FULL COMMISSION ON JULY 12 FOR FINAL APPROVAL. THEY MAY DO THIS EVEN IF THE VOTE IN THE MILK MANAGEMENT COMMITTEE IS ADVERS. END SUMMARY.

2. MISSION OFFICERS WENT OVER THE SEVEN POINTS MADE IN REFTEL IN GREAT DETAIL WITH A SERIES OF COMMISSION OFFICIALS, INCLUDING HIJZEN,, BABOT, FIELDING AND LIERKE, THE MORNING OF JULY 11. HIJZEN FINALLY SUMMED UP THE
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OFFICIALS' REACTION AS ACCEPTING POINTS I THROUGH IV,

ACCEPTING PONT V WITH A CAVEAT, COMMENTING ON POINT VI, AND LARGELY REJECTING POINT VII AT THIS TIME.

3. THE TWO FEARS THAT COMMISSION OFFICIALS HAD REGARDING POINT V SEEMED TO BE (A) THAT THE USG MIGHT BE SEEKING THE PUSH THE COMMISSION TO ABROGATE THE PRE-FIXATION ARRANGEMENTS, WHICH, THE COMMISSION FEELS, IS IMPOSSIBLE; OR (B) THAT IF IT TURNED OUT THAT SUCH ARRANGEMENTS WERE VERY SUBSTANTIAL IN VOLUME, THE USG MIGHT DROP THE EFFORT TO OBTAIN A STAY FROM THE COURT. WE ATTEMPTED TO PERSUADE THEM THAT WHAT IN FACT WAS BEING SOUGHT WAS FACTUAL MATERIAL WHICH THE TREASURY WOULD NEED TO ANSWER QUESTIONS THAT WOULD PROBABLY ARISE IN COURT. IN THAT CONNECTION, IT WOULD SEEM HELPFUL TO BE ABLE TO SAY THAT SUCH ARRANGEMENTS WOULD BE OF LIMITED AND DECREASING IMPORTANCE DURING THE PERIOD OF SUSPENSION OF RESTITUTIONS. HIJZEN FINALLY ACCEPTED THIS, AND SAID THAT THE COMMISSION WOULD ATTEMPT TO PROVIDE THE INFORMATION REQUESTED WITH A VIEW TO HELPING IN THE COURT ACTION; BUT HE, AND RABOT, TOO, EXPRESSED STRONG DOUBTS ON PRACTICAL GROUNDS AS TO THE AVAILABILITY OF THE SPECIFIC INFORMATION REQUESTED. THEY WILL, HOWEVER, TRY TO SUBSTANTIATE THEIR IMPRESSIONS OF THE SITUATION: (A) THAT PRE-FIXATION IS NOT VERY SIGNIFICANT IN DAIRY EXPORTING, FOR DAIRY EXPORTERS GENERALLY MAKE SPOT CONTRACTS AND ACCEPT THE RESTITUTION PREVAILING AT THAT TIME; (B) THAT IN THE CASE OF ONE IMPORTANT CHEESE EXPORTING COUNTRY, ITALY, PRE-FIXATION IS RARELY IF EVER AGREED TO (APPARENTLY BECAUSE IN SUCH CASES THE EXPORTER MUST MAKE A DEPOSIT); (C) THAT PRE-FIXATION CONTRACTS CAN BE MADE AT ANY TIME, AND THERE SHOULD NOT, THEREFORE, BE THE PROBLEM OF AN ESPECIALLY LARGE OVERHANG THAT COULD EXIST IF THEY COULD ONLY BE ENTERED INTO ON A FEW FIXED DATES, SUCH AS JUNE 1 OR JULY 1; (D) THAT THE CONTRACTS ARE NOT OPEN-ENDED IN VOLUME, BUT FOR A FIXED TONNAGE; (E) THAT WHILE THE CONTRACTS ARE FOR SIX MONTHS, FREQUENTLY THE AMOUNTS INVOLVED WILL BE SHIPPED IN ONE OR TWO MONTHS.

4. THE COMMISSION OFFICIALS ACCEPTED POINT VI. THEY RECOGNIZED THE DIFFICULTIES INVOLVED IN MAKING ANY COMMITMENT FOR THE FUTURE. THEY DID NOTE THAT FAILURE

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TO OBTAIN SUCH A COMMITMENT WOULD MAKE THEIR TASK OF GETTING MEMBER STATES TO GO ALONG WITH THE SUSPENSION SOMEWHAT MORE DIFFICULT. BUT HIJZEN ENDED UP BY SAYING THAT HE REGARDED THE REST OF THE PACKAGE AS A BALANCED EXCHANGE OF TEMPORARY ACTIONS BY THE TWO SIDES, AND THAT HE SAW THAT ASKING FOR A COMMITMENT REGARDING FUTURE USE OF DISCRETION WAS ASKING TOO MUCH.

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5. THE REAL PROBLEM WAS POINT VII. THE COMMISSION OFFICIALS ADVANCED A VARIETY OF REASONS FOR LARGELY REJECTING THIS POINT. SEMANTICALLY, IT WAS IMPOSSIBLE FOR THEM TO AGREE TO ANYTHING SMACKING OF "PRENEGOTIATIONS." POLITICALLY, AGREEMENT TO POINT VII WOULD PLAY INTO THE HANDS OF COMMUNITY "HAWKS". THE "HAWKS" WERE ALREADY ARGUING THAT THE COMMISSION'S PROPOSAL TO SUSPEND RESTITUTIONS ON DAIRY PRODUCTS WAS THE THIN END OF A WEDGE LEADING TO PERMANENT ABANDONMENT OF THE RESTITUTIONS. AGREEMENT TO DISCUSSIONS ALONG THE LINES DESCRIBED IN POINT VII WOULD SEEM TO CONFIRM THESE ACCUSATIONS. FINALLY, THE COMMISSION WAS NOT PREPARED, PSYCHOLOGICALLY OR IN TERMS OF AVAILABILITY OF PERSONNEL, TO ENGAGE IN SUCH DISCUSSIONS AT THIS TIME. THE COMMISSION'S EMPHASIS WAS ON THE PASSAGE OF THE TRADE REFORM ACT AND ON THE NEW POSSIBILITIES THAT LEGISLATION MIGHT OFFER. IF, BY SEPTEMBER OR OCTOBER, THE PROSPECTS FOR EARLY ENACTMENT OF THE TRA APPEARED POOR, THEY WOULD OBVIOUSLY HAVE TO RECONSIDER THE QUESTION. BUT FOR NOW, THEY PREFERRED SIMPLY TO "BUY TIME" AND HOPE FOR THE BEST.

6. NEVERTHELESS, HIJZEN AGREED THAT DURING THE TIME HE AND AMBASSADOR MALMGREN ARE IN GENEVA IN CONNECTION WITH NEXT WEEK'S MEETING OF THE TNC, HE COULD HAVE AN INFORMAL
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TALK--A "FIRESIDE CHAT"--WITH MALMGREN REGARDING THIS PROBLEM. HIJZEN SAID THAT AS ALWAYS HE WOULD BE READY TO DISCUSS ALL IDEAS--BUT ON AN INFORMAL, UNOFFICIAL BASIS.

7. AT THE END OF THE DISCUSSION HIJZEN, WITH RABOT'S CONCURRENCE, AND ON THE BASIS OF THEIR UNDERSTANDING OF THE POINTS IN THE REFTEL, INSTRUCTED LOERKE TO GO TO THE MILK MANAGEMENT COMMITTEE MEETING TO SEEK ITS CONCURRENCE TO THE PROPOSAL TO SUSPEND DAIRY RESTITUTIONS. THE COMMISSION OFFICIALS EXPECTED SOME MEMBER STATE OPPOSITION TO THIS PROPOSAL. THEY NOTED, HOWEVER, THAT THE POWER TO SUSPEND THE RESTITUTIONS LAY WITH THE COMMISSION, AND INDICATED THAT SOAMES AND LARDINOIS MIGHT MAKE THEIR PROPOSAL TO THE COMMISSION EVEN IF THE COMMITTEE REACTED ADVERSELY. THEY DID ASK THAT THEY BE INFORMED BEFORE THE COMMISSION MEETS, TOMORROW, JULY 12, IF THERE IS ANYTHING IN THEIR REACTION TO THE USG POINTS WHICH IN WASHINGTON'S JUDGMENT IS INCORRECT OR UNACCEPTABLE.

8. AFTER THIS CABLE WAS DRAFTED, FIELDING CALLED TO REPORT THAT THE MILK MANAGEMENT COMMITTEE AGREED, ALMOST UNANIMOUSLY, TO SUSPENSION OF THE DAIRY RESTITUTIONS. ALL MEMBER COUNTRY DELEGATES, WITH THE EXCEPTION OF THE ITALIANS, WHO ABSTAINED, VOTED IN FAVOR OF THE COMMISSION PROPOSAL. THE DANES, WHILE VOTING FOR IT, DID ASK THAT LARDINOIS BRIEFLY EXPLAIN THE ACTION TO NEXT WEEK'S MEETING OF THE EC COUNCIL (FOREIGN MINISTERS). GREENWALD

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DAIRY PRODUCTS, COUNTERVAILING DUTIES, COMMITTEES, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 11 JUL 1974
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974ECBRU05122
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740185-0453
From: EC BRUSSELS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740758/aaaabxzd.tel
Line Count: 203
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: LIMDIS
Reference: STATE 149044
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 02 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 APR 2002 by worrelsw>; APPROVED <20 JUN 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COUNTERVAILING DUTIES ON EC DAIRY PRODUCTS
TAGS: ETRD, EEC
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005